



# Contingency Contracting Training



## Contingency Funding and Requirement Process



Chapter 3 in DCC Handb



# Overview

- Key Points
- Fiscal Law Constraints
- Purchase Requests
- Contracting Related Boards
- Types of Funding
- Funding Procedures
- Chapter Acronyms





# Key Points

- Appropriated funds are subject to three basic fiscal constraints:
  - **Time:** A current fiscal year's (FY) funds must be used for current needs
  - **Purpose:** Funds must be expended for the purpose established by Congress
  - **Amount:** The Anti-Deficiency Act (ADA) prohibits obligating or spending money before it is appropriated or in excess of a specific appropriation, the acceptance of voluntary services, and employing personal services in excess of authorized amounts
- Contingency contracting officers (CCOs) should consult with the finance office to ensure proper use of each type of funding under their control





# Fiscal Law Constraints: Time

## Time: Availability of Appropriations

- Appropriations have a definite “life span”
  - Military Personnel: 1 Year
  - Operations & Maintenance: 1 year
  - Research, Development, Test & Evaluation: 2 years
  - Procurement: 3 years
  - Military Construction: 5 years
- Bona Fide Needs Rule
  - Provides that fiscal year’s (FY) multi-year appropriations only be obligated to meet a bona fide need arising in (or sometimes before) the FY for which the appropriation was made
  - Restricts the use of existing FY’s appropriated funds on the next FY’s requirements





# Fiscal Law Constraints: Time

## Bona Fide Needs Rule: Supplies

- Use currently available appropriations to purchase needed supplies within the current FY
- Year-end spending for items that will be delivered within a reasonable time after the new FY begins is proper (must document the current need)
- Note: there are lead time and stock level exceptions to the general rule governing purchases of supplies







# Fiscal Law Constraints: Time

## Bona Fide Needs Rule: Services

- A **severable** service implies it is continuing and recurring in nature and can be separated into components that independently provide value to customers' needs
  - [10 USC §2410a](#): *permits funding for severable services using an annual appropriation for up to a total of 12 months when the contract is awarded, even if the period of performance will begin in one FY and continue into a subsequent FY ( [DFARS 232.703-1](#))*
- A **non-severable service** implies a single undertaking that cannot be feasibly subdivided or only produces a single or unified outcome, product, or report
  - Must be funded in full at the time of award with a then current appropriation
  - Note: lead time exception can apply to the start date of service type contracts





# Fiscal Law Constraints: Time

## Bona Fide Needs Rule: Construction

- Construction contracts obligated and awarded late in a FY must have a performance start within 90 days of award
  - Note: A progress schedule should be used to determine the commencement of work
- Commencement of work can be in the form of the contractor ordering materials and delivering them to the government, who then takes possession of materials to remain in the government's possession





# Fiscal Law Constraints: Purpose

Purpose: Funds must be expended for the purpose established by Congress

- Necessary Expense Doctrine:
  1. The purchase is logically related to the appropriation. The expenditure must be for a particular statutory purpose.
  2. Not prohibited by law: purchase cannot overcome a statutory prohibition, even if needed to carry out mission
  3. Not otherwise provided for: if another specific appropriation exists for a given purpose, it must be used
    - Note: if two appropriations are reasonably valid for a specific expenditure, then the agency may choose either appropriation and must continue to use the selected appropriation to the exclusion of any other.







# Fiscal Law Constraints: Amount

Amount: The Anti-Deficiency Act prohibits obligating or spending money before it is appropriated or in amounts in excess of the amount appropriated

- 31 USC § 1342 prohibits the acceptance of voluntary services or employing personal services in excess of authorized amounts
- Criminal act to knowingly enter into or authorize government contracts in the absence of sufficient government funds to pay for such contracts
  - Punishable by a fine up to \$5K, 2 years in prison, or both





# Purchase Requests

## Lines of Approval:

1. Determine office of primary responsibility (OPR) for need and mechanism to support requirements
2. Prepare paperwork to lease or purchase locally
3. Obtain approval from deployment commander or applicable authority (depends on size of contingency)
4. Submission: deployed commander and CO should establish the local lines of authority for requestors and approving officials
5. Only COs can obligate the government to a contractual agreement





# Purchase Requests

## Requirements

- Request approved by the deployed commander or applicable designee
- Funds certified through the appropriate budget office
- Purchase request has a fund cite
- Purchase request has sufficient funds to cover purchase

## Essential Parts

- Clear and detailed description of what is required of the contractor/vendor
  - Noun, Part number, Photo, Name and organization of customer and POC
  - For services and construction projects, a copy of the PWS or SOW or SOO required, and COR's information
- Certification of funds
- Quality Assurance personnel or contract monitor to assist clarification





# Purchase Requests

## Purchase Description

- What is it?
- What material is it made of?
- What are its principal descriptive characteristics?
- What does it do?
- What is it used for?
- How is it used?
- Where is it used?

## Characteristics

- Kind of material
- Electrical data, if any
- Dimensions
- Principles of operation
- Restrictive or significant environmental conditions
- If part of an assembly, the location within the assembly
- Essential operating conditions
- Special features, if any
- Intended use





# Purchase Requests

- Purchase request development “Pitfalls to Avoid”
  - Overly restrictive characteristics
  - Inadequate description or specifications
  - Complicated technical terms or jargon
  - Dictating “how to” instructions vice performance expectations
- A Performance-based Work Statement (PWS) defines the requirements in terms of results, should include:
  - Description of services and general information (definitions and so forth)
  - Government-furnished property and services, if applicable
  - Measurable performance standards
  - Method of assessing contractor performance against performance standards
  - Performance incentives where appropriate







# Purchase Requests

In a contingency setting:

- Most initial operations requests are legitimate and allowed to proceed without prioritization
- Prioritize requests using a readiness center
- Requests will differ at the beginning of a contingency operation than once the contingency stabilizes
- Initially, verbal requests are acceptable
  - A suspense for receipt of backup paperwork
  - Adequate description of the requirement
- Verbal requests □ written requests
- Requirements for all formats
  - Deployed commander approval
  - Funds have been certified





# Purchase Requests

## Quality Assurance Surveillance Plan (QASP):

- The objective of the service
- The desired results (such as cost savings, improved customer service, or regular product deliveries)
- A methodology to assess contractor performance
- A methodology to validate when and if the objectives are met
  - An SDS is a summary provided as a tool for identifying major requirements of a contract, where they can be found in the SOW, and the performance standard that must be attained

## *Seven Steps to Performance-Based Service Acquisition Guide*





# Contracting Related Boards

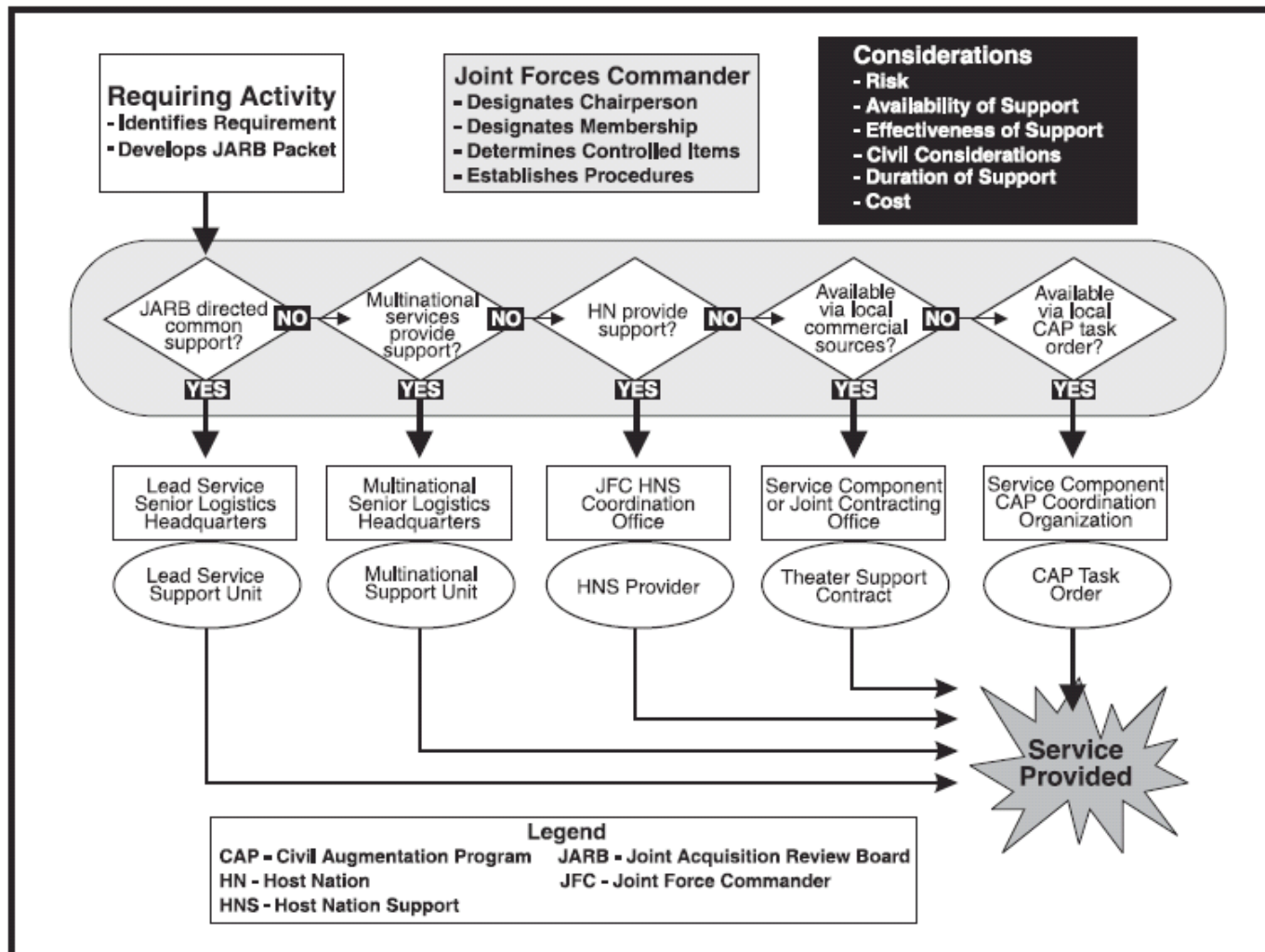


Figure 2. Joint Acquisition Review Board Process





# Contracting Related Boards

Commander approval may be needed, depending on:

- List of current priorities
- Specific purchase request requirements
- Source of funding
- Joint controlled support item or service or funding
  - Joint Acquisition Review Board (JARB): a Service-unique requirements board to validate and prioritize the Service's requests





# Contracting Related Boards

- Geographic Combatant Commander (GCC) is responsible for coordinating all common user logistics (CUL), to include contracting
- GCC should consider directing the establishment of:
  - Combatant Commander Logistics Procurement Support Board (CLPSB): ensures all related logistics efforts are properly coordinated across the entire area of responsibility
  - Joint Acquisition Review Board (JARB): coordinates and controls the requirements generation and prioritization of Joint CUL supplies and services needed within the mission
  - Joint Contracting Support Board (JCSB): coordinates and deconflicts contracting actions within the Joint operations area







# Contracting Related Boards

| CLPSB   | JARB  | JCSB  |
|---|---|---|
| Focus on general policies and area of responsibility-wide issues related to contracting support (combatant commander level).  | Focus on <i>what</i> are requirements priorities and source of support (subordinate Joint force commander level).   | Focus on <i>how</i> contracting will procure support within the Joint operations area (subordinate Joint force commander level).  |
| <ul style="list-style-type: none"> <li>–Identify contracting and other related issues that may require Joint Staff Office of Primary Responsibility, J4, or Office of the Secretary of Defense action.</li> <li>–Establish area of responsibility-wide contracting and contractor management policies and procedures.</li> <li>–Determine theater support contracting organizational structure.</li> <li>–Coordinate with US embassies and host nations on contracting support issues and actions (host nation support, status of forces agreements, visa requirements, and others).</li> </ul> | <ul style="list-style-type: none"> <li>–Determine what common user logistics support needs to be controlled.</li> <li>–Review requirements.</li> <li>–Recommend priority of support requests.</li> <li>–Recommend an acquisition methodology to be used to meet the requirements (such as organic military, host nation support, multinational support, or contracted support)</li> </ul> | <ul style="list-style-type: none"> <li>–Eliminate duplication of effort by coordinating theater support and external support contracting actions.</li> <li>–Determine appropriate external or theater support contracting mechanism.</li> <li>–Provide an exchange of information among contracting activities covering such matters as sources of supply, prices, and contractor performance.</li> <li>–Provide guidance on consolidation of purchases.</li> </ul> |

Table 1. Contracting Related Boards, Part 1



| CLPSB  | JARB | JCSB  |
|--|------|---|
| <ul style="list-style-type: none"> <li>–Coordinate with DoD and military departments on potential loss of contract support and risk management of same in accordance with DoD Instruction 1100.22, <i>Manpower Mix Instruction</i>.</li> </ul> |      | <ul style="list-style-type: none"> <li>–Establish theater support contracting procedures.</li> <li>–Prescribe payment procedures consistent with currency control requirements and international agreement.</li> <li>–Establish contract visibility procedures and reports.</li> <li>–Coordinate the enforcement of contractor management policies for external support and theater support contracts.</li> </ul> |

Table 1. Contracting Related Boards, Part 2



# Type of Funding

- In any contingency, CCOs should consult with the finance office to ensure proper use of each type of funding under their control
- In cases where non-DoD funding is provided (e.g. by the State Department), CCO's should consult with their HCA and finance
- Operation and Maintenance (O&M)
  - Combatant Commander Initiative Fund (CCIF)
- MILCON Construction (MILCON)
  - Emergency and Extraordinary Expenses (E&EE)
- Procurement
- Nonappropriated Funds (NAF)
  - Overseas Humanitarian, Disaster, and Civic Assistance (OHDACA)
- Commander's Emergency Response Program Funds (CERP)
- Official Representation Funds (ORF)





# Type of Funding

## Military Construction (MILCON):

- Includes any construction, development, conversion, or extension of any kind carried out with respect to a military installation whether to satisfy temporary or permanent requirements (includes foreign real estate under the operational control of the U.S. military)
- Construction projects over \$1.5M require approval by Congress

## Operations & Maintenance (O&M):

- Covers day-to-day expenses incurred during training exercises, deployments, and operating and maintaining installations
- Maintenance and repair work would be paid for via O&M funds, not MILCON
- If the work is integrated and cannot be separated, work is funded as construction





# Type of Funding

## Procurement Appropriation:

- Used for new obligations only for the 3 fiscal years designated in the appropriation act
- Identified in the Treasury Department's official symbols and titles for federal accounts
- When the appropriation expires, use it only to liquidate obligations and make authorized obligation adjustments for 5 more years under its original Treasury symbol
- Legal counsel should be consulted:
  - Units costing more than \$250K
  - O&M appropriation usage for procurement







# Type of Funding

## Combatant Commander Initiative Fund (CCIF):

- Controlled by the Chairman of the Joint Chiefs of Staff, who can provide funds to the combatant commanders from O&M appropriations for emergencies and extraordinary expenses
- Funds are used to enhance warfighting capability, readiness, and sustainability of the forces

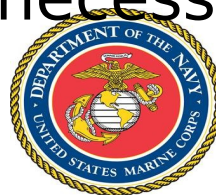






# Type of Funding

- Overseas Humanitarian Disaster and Civic Assistance: Humanitarian, disaster, and civic aid to foreign countries in which Congress must be given 15 days prior notice before transferring any defense articles or services to another nation or UN peace-related operations
- Humanitarian and Civic Assistance: US military personnel participating in overseas deployments carry out humanitarian activities such as road and school construction, vaccination of children, and well digging
- Foreign Disaster Assistance: The President may direct SECDEF to provide OCONUS disaster assistance for manmade or natural disasters when necessary to prevent loss of life





# Type of Funding

## Commander's Emergency Response Program (CERP):

- Military commanders can quickly direct money to meet humanitarian, relief, and reconstruction needs that immediately assist the indigenous population
  - Projects are usually small-scale, low-dollar, short-term, employment-oriented, emergency, and high visibility for the benefits of the people
  - Must not have a direct or indirect benefit to the US
- Check with your local finance office on CERP in your area FAR exemptions





# Funding Procedures

- Bulk Funding:
  - Rather than obtaining individual obligation authority on each purchase document, funds are precommitted
  - Strict control of the bulk funds is necessary to preclude the misuse of funds
- Request and Authority to Cite Funds:
  - CCO responsible for keeping records on obligations and remaining balance of funds
  - Bulk funding document will certify that funds are available and records them as committed (estimate of what may be obligated by receipt)





# Funding Procedures

Contact the budget office when:

- Vehicle rentals for recreational activities which will use MWR or NAF
- Medical supplies and services
- Food which requires a subsistence fund cite
- Legal claims payable to host government, foreign companies and citizens, and other US government agencies
- Host government provided equipment, services, and facilities.
- Goods and services needed to support requirements for aircraft accidents and related incidents not previously covered





# Funding Procedures

## Funds Certification Officer:

- Certifies on the purchase request that funds are available prior to processing by the contracting office under peacetime conditions
- During contingencies, the issue of funding becomes more involved because of the urgency and source of the requirements
- Conversion rates at the time of funds certification should also be noted







# Funding Procedures

Fund Cites: accounting classification codes are required on all purchase requests

## ***Fund Cite Example:***

**57 0 3400 310 67A2 231010 01 59290 503300**  
**ESP 8Z**

- 57: Agency
- 0: Fiscal Year
- 3400: Type of Appropriation
- 310: Fund Code and Fiscal Year
- 67A2: Operating Agency Code (OAC) and Operating Budget Account Number (OBAN)
- 231010: Responsibility Center (RC) and Cost Center (CC) Code
- 01: Budget Activity Code
- 503300: Element of Expense/Investment Code (EEIC)
- ESP: Accounting and Disbursing Number
- 8Z: Emergency and Special Projects





# Chapter Acronyms

- ADA – Antideficiency Act
- A&E – Architecture and Engineer
- AFI – Air Force Instruction
- AOR – Area of Responsibility
- CCIF – Combatant Commander Initiative Fund
- CCO – Contingency Contracting Officer
- CERP – Commanders’ Emergency Response Program
- CLPSB – Combatant Commander Logistic Procurement Support Board
- COR – Contracting Officer’s Representative
- CUL – Common User Logistics
- DA – Department of the Army
- DAU – Defense Acquisition University
- DCMA – Defense Contract Management Agency
- DD – Department of Defense Form
- DFARS – Defense Federal Acquisition Regulation Supplement
- DLA – Defense Logistics Agency
- DoD – Department of Defense
- E&EE – Emergency and Extraordinary Expenses
- EEIC – Element of Expense Identification Code
- ESP – Emergency and Special Project
- FAR – Federal Acquisition Regulation
- FMR – DoD Financial Management Regulation
- FY – Fiscal Year
- GCC – Geographic Combatant Commander
- HNS – Host Nation Support
- JARB – Joint Acquisition Review Board
- JCSB – Joint Contracting Support Board
- JFC – Joint Force Commander
- JOA – Joint Operations Area
- MILCON – Military Construction
- MIPR – Military Interdepartmental Purchase Request
- MWR – Morale, Welfare, and Recreation
- NAF – Nonappropriated Funds
- NAFI – Nonappropriated Funds Instrumentalities
- NAVSUPINST – Navy Support Supply Instruction
- OAR – Obligation Adjustment Reporting
- O&M – Operations and Maintenance
- OHDACA – Overseas Humanitarian, Disaster, and Civic Assistance
- OPNAVINST – Chief of Naval Operations Instruction
- OPR – Office of Primary Responsibility
- ORF – Official Representation Funds
- PR – Purchase Request
- PWS – Performance(-based) Work Statement
- QASP—Quality Assurance Surveillance Plan
- SecDef SECDEF – Secretary of Defense
- SECNAVINST – Secretary of the Navy Instruction
- SDS – Service Delivery Summary
- SOF – Special Operations Forces
- SOO – Statement of Objectives
- SOW – Statement of Work/Scope of Work
- US – United States
- USC – United States Code
- USCENTCOM – United States Central Command





**Agile Contracting Support...Anytime...  
Anywhere**

